

## **REMARKS**

In the Office Action, the Examiner rejected claims 32-41 under 35. U.S.C. §101; rejected claims 1-7, 30-33 and 41 under 35 U.S.C. §102(e); and rejected claims 23-29 and 34-40 under U.S.C. §103(a). These rejections are fully traversed below.

Claims 1, 23, 30-32 and 41 have been amended to further clarify the subject matter regarded as the invention. Thus, claims 1-7 and 23-41 remain pending. Reconsideration of the application is respectfully requested.

### **REJECTION OF CLAIMS 32-41 UNDER 35 U.S.C. §101**

In the Office Action, the Examiner rejected claims 32-41 under 35 U.S.C. §101 alleging that these claims are directed towards non-statutory subject matter. Applicants respectfully disagree. The nature of the computer program code recited in these claims is sufficiently tangible, physical and/or functional to satisfy the requirements of 35 U.S.C. §101. Nevertheless, to expedite prosecution of this application, Applicants have amended claims 32 and 41 in the manner suggested by the Examiner. Accordingly, it is respectfully requested that the Examiner withdraw the rejection to claims 32-41 under 35 U.S.C. §101.

### **PATENTABILITY OF CLAIMS 1-7 AND 23-41**

In the Office Action, the Examiner rejected claims 1-7, 30-33, and 41 under 35 U.S.C. §102(e) as being anticipated by Nelson, et al., U.S. Patent No. 6,498,897; and rejected claims 23-29 and 34-40 under 35 U.S.C. §103(a) as being unpatentable over Nelson, et al. in view of Hoffert, et al., U.S. Patent No. 6,374,260. Applicants respectfully disagree.

Nelson, et al. describes a media server system and method in which digital media assets are delivered across networks by streaming data packets. The general operation of a media server is described in Nelson, et al., column 3, line 26-40, where it states:

Media server 12 can be connected to a plurality of client system 16 across a communication network 18. Communication network 18 can be supported by a variety of connection types such as a local area network, wide area network, and the Internet. In general, a user of a client system 16 can send a request to media server 12 across communication network 18. The request can identify a digital media title that the user decides to playback on

client system 16. Media server 12 responds by accessing the appropriate media file from digital media data 14, separating the media file into data packets and streaming data packets to client system 16. Client system 16 receives the data packets and uses a decoder to process the data packets and playback the digital media data.

In contrast, the claim 1 is generally associated with enabling client machines to access, via a network, a media database residing on a server. More particularly, claim 1 pertains to a method for retrieving media across a network. Among other things, claim 1 recites "querying a server for features of the server" (claim 1, line 3) and "receiving the features of the server, the features including information about at least one digital media database..." (claim 1, lines 4-6). As to these limitations, on page 4 of the Office Action, the Examiner points to an install command described in Nelson, et al. at column 4, line 59 to column 5, line 4. However, Nelson, et al. therein is merely describing installation of a media file on a media server. In doing so, the media server extracts header information from a media file and stores the header information in a database along with server information. As explained at column 5, lines 5-8 of Nelson, et al., "[b]y performing header information extraction and storing of media metadata during the install process, the media server is prepared to quickly access and send the header information to a requesting client system". As such, Nelson, et al. does not teach or suggest querying a server for features of the server where the features include information about at least one digital media database. Further, the information being received from the server, as recited in claim 1, includes metadata about records within the digital media database.

Thereafter, according to claim 1, the server can again be queried for information to populate one or more of the records of the digital media database. On pages 4 and 5 of the Office Action, the Examiner makes a reference to injection of artificial headers 54 into the decoder 56, which allegedly allows a smooth playback of digital media data. In this regard, the Examiner refers to column 6, lines 8-12 of Nelson, et al. However, in sharp contrast, claim 1 recited that the information being queried from the server concerns the information required to populate one or more records of the digital media database. The injection of an artificial header as described in Nelson, et al. during playback is not information being utilized to populate records of a digital media database. It should be noted that claim 1 also recites that subsequent to populating one

or more records of the digital media database, digital media associated with at least one of the populated records is retrieved. Hence, the receiving of the features of the server and the subsequent populating of records of the digital media database based on information provided by the server are performed prior to receiving digital media associated with at least one of the populated records.

Accordingly, it is submitted that claim 1 is patentably distinct from Nelson, et al.

Claim 30 pertains to a server for retrieving digital media, and claim 32 pertains to a computer readable medium for retrieving digital media. These claims recite limitations similar to those discussed above regarding claim 1, though in slightly different format. Nevertheless, for reasons similar to those noted above with respect to claim 1, it is submitted that claims 30 and 32 are also patentably distinct from Nelson, et al. for at least the above-noted reasons.

Claim 31 pertains to a server for providing digital media to one or more devices. Claim 31 recites "receiving a query from a device for features of the server" and "sending the features of the server to the device in response to the query" (claim 31, lines 4-5). In addition, claim 31 recites that "the features including information about at least one digital media database, wherein the information about the at least one digital media database includes metadata about records, wherein the metadata can be used by the device to locally present the records as a first local presentation, and wherein the records pertain to digital media metadata or media collection data or both" (claim 31, lines 4-9). On page 6 of the Office Action, the Examiner again correlates these operations to an install command and the use of an artificial header. As noted above, the install command of Nelson, et al. is not a query from a device for features of a server. Further, an artificial header as utilized in Nelson, et al. does not correlate to features of a server which includes information about at least one digital media database, wherein the information about the at least one digital media database includes metadata about records. Further, the metadata can be used by the device, as recited in claim 31, to locally present the records of the digital media database as a first local presentation. The artificial header described in Nelson, et al. does not teach or suggest that a device could in anyway locally present records of a digital media database in a local manner at the device. Accordingly, it is submitted that claim 31 is patentably distinct from Nelson, et al. In addition, claim 41 pertains to a computer readable medium for providing digital media to one or more devices. For reasons

similar to those noted above with respect to claim 31, it is submitted that claim 41 is also patentably distinct from Nelson, et al.

Although the Examiner further relies on Hoffert, et al. to reject claims 23-29 and 34-40, these dependent claims are patentable for at least the reasons noted above with respect to Nelson, et al. It is also noted that Hoffert, et al., even if combined with Nelson, et al., would be unable to overcome the serious deficiencies of Nelson, et al.

Based on the foregoing, it is submitted that all claims are patentably distinct over the cited art of record. Additional limitations recited in the independent claims or the dependent claims are not further discussed because the limitations discussed above are sufficient to distinguish the claimed invention from the cited art. Accordingly, Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner.

Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,

/C. Douglass Thomas/

C. Douglass Thomas  
Reg. No. 32,947

Technology & Innovation Law Group, PC  
19200 Stevens Creek Blvd., Suite 240  
Cupertino, CA 95014  
408-252-9991  
408-252-9993 (fax)